

REMARKS/ARGUMENTS**Remarks**

Upon entry of this amendment, claim 1 will be amended, whereby claims 1-5 and 7, 9-13, and 15-17 will remain pending. Claim 1 is the sole independent claim.

Claim 1 has been amended herein to even more clearly recite that the at least one suction channel comprises an upper channel wall and a lower channel wall forming the suction channel, that the upper channel wall and the lower channel wall extend along the at least one press nip to run transverse to the pulp web, that each of the upper channel wall and the lower channel wall extends at an acute angle to the at least one dewatering belt at least in an initial zone of the suction channel, and that the upper channel wall is part of a water capture device for water thrown off from the upper press roll above the at least one suction channel.

Reconsideration and allowance of the application are respectfully requested.

Response To Rejections

The following rejection are set forth in the Office Action:

Claims 1-5, 7, 9-13 and 14-17 [apparently claims 1-5, 7, 9-13 and 15-17] are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds, U.S. Patent No. 3,355,350.

The rejection contends that even though the figures seem to show that the saveall and the dewatering belt of Reynolds run in parallel, claim 1 only recites that they

run in acute angle to one another, without any specific inclination/angle. The rejection contends that this is not only obvious to one of ordinary skill in the art, but within the expected deviation from the desired standard, i.e., a certain degree of deviation from the desired state is always accounted for/permitted, since nothing is perfect and/or runs perfectly. The rejection also contends that the claimed subject matter is not patentable absent some showing of unexpected results or criticality.

Still further, the rejection notes that Reynolds is silent with respect to distance between the suction channels or the absolute value of the under-pressure or vacuum. However, the rejection contends that this is a matter of optimization of a result effective variable in a known process, and within the skill of the art.

In response to this ground of rejection, Applicants point out that independent claim 1 is directed to a press arrangement for dewatering a pulp web in a machine for at least one of production and finishing of a pulp web, comprising:

- at least one press nip formed by a lower press roll and an upper press roll arranged approximately above and pressed against said lower press roll;

- at least one dewatering belt adapted to run above the pulp web through said at least one press nip, and to receive water expressed from the pulp web;

- a water receiving device positioned between said upper press roll and said at least one dewatering belt, said water receiving device comprising at least one suction channel projecting into a wedge-shaped area between said upper press roll and said at least one dewatering belt and extending along said at least one press nip to be

transverse to the pulp web, and a connection to connect said at least one suction channel to a source of reduced pressure;

a collecting tank connected to said at least one suction channel that receives and transports away water aspirated into said at least one suction channel;

said at least one suction channel comprising an upper channel wall and a lower channel wall forming said suction channel, said upper channel wall and said lower channel wall extending along the at least one press nip to run transverse to the pulp web, each of said upper channel wall and said lower channel wall extending at an acute angle to said at least one dewatering belt at least in an initial zone of the suction channel, and

said upper channel wall is part of a water capture device for water thrown off from said upper press roll above said at least one suction channel.

Thus, amongst other features recited in Applicants' independent claim 1, the claim includes that the at least one suction channel comprises an upper channel wall and a lower channel wall forming the suction channel; that the upper channel wall and the lower channel wall extend along the at least one press nip to run transverse to the pulp web; that each of the upper channel wall and the lower channel wall extend at an acute angle to the at least one dewatering belt at least in an initial zone of the suction channel; and that the upper channel wall is part of a water capture device for water thrown off from the upper press roll above the at least one suction channel.

Applicants respectfully submit that Reynolds does not disclose a combination of features as recited in Applicants' claim 1, and further features as recited in Applicants'

dependent claims. For example, the rejection does not point out where Reynolds discloses at least one suction channel comprises an upper channel wall and a lower channel wall forming the suction channel. The rejection merely points to bottom strip 30 and channel 36 of Reynolds, but does not indicate where Reynolds discloses a suction channel formed by an upper wall and a lower wall - let alone each of the upper channel wall and the lower channel wall forming the suction channel extending at an acute angle to the at least one dewatering belt at least in an initial zone of the suction channel.

Accordingly, if the rejection is maintained, the Examiner is requested to specifically point out where such structure is disclosed or suggested in Reynolds.

Moreover, the rejection contends that the figures in Reynolds show that the bottom strip 30 is inclined at least 10° with respect to the horizontal line. However, the rejection does not establish where Reynolds teaches or suggests that each of the upper channel wall and the lower channel wall extends at an acute angle to the at least one dewatering belt at least in an initial zone of the suction channel.

Still further, the Examiner alleges that nothing is perfect and is apparently asserting that the lower wall of Reynolds may be at an acute angle with respect to the dewatering belt. Apparently, this is an inherency rejection. However, the Examiner is reminded for inherency to be present the **Examiner has the burden of showing that the result indicated by the Examiner is the necessary result, and not merely a possible result.** In re Oelrich, 212 U.S.P.Q. 323 (CCPA 1981); Ex parte Keith et al., 154 U.S.P.Q. 320 (POBA

1966). The fact that a prior art article may inherently have the characteristics of the claimed product is not sufficient. Ex parte Skinner, 2 U.S.P.Q.2d 1788 (BPAI 1986).

As the Board of Patent Appeals and Interferences states in Ex parte Levy, 17 U.S.P.Q.2d 1461, 1463:

However, the initial burden of establishing a prima facie basis to deny patentability to a claimed invention rests upon the examiner. In re Piasecki, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Wilding, 535 F.2d 631, 190 USPQ 59 (CCPA 1976); Hansgirk v. Kemmer, 102 F.2d 212, 40 USPQ 665 (CCPA 1939).

In the instant situation, the Examiner has not provided a basis in fact and/or technical reasoning to reasonably support the determination that the asserted inherency necessarily flows from the applied prior art. There is nothing in Reynolds that teaches or suggest a suction channel formed by upper and lower channel walls, or that the upper and lower channel walls are at acute angles to the dewatering belt. Reynolds does not disclose an acute angle nor any desirability of having an acute angle.

Moreover, the rejection does not address the recitation of claim 13 which recite an acute angle of between 10 and 45°C. Certainly, this is not appropriate, and this recitation must be addressed in the rejection.

Applicants further note that the rejection makes assertions of obviousness without supporting documentary evidence. Applicants respectfully submit that an obviousness rejection cannot be supported by mere allegations that it would have been

obvious to arrive at Applicants' invention. The Examiner is reminded that a rejection must be based upon documentary evidence, and not merely official notice. In this regard, the Examiner's attention is directed to MPEP 2144.03 wherein it is noted that, "If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position". In the instant situation, Applicants respectfully submit that the rejection is improper as not utilizing documentary evidence to support the position taken in the rejection. The rejection merely makes an assertion of obviousness, but does not support this assertion by documentary evidence. There is not the slightest documentary evidence to arrive at Applicants' disclosed and claimed invention.

Thus, in the event that the rejections are maintained, Applicants request that the rejections be modified to include documentary evidence supporting the position taken in the rejections.

Moreover, attention is directed to In re Ahlert and Kruger, 424 F.2d 1088, 165 USPQ 418, 420-421 (CCPA 1970), which is cited in MPEP 2144.03. In Ahlert, at 165 USPQ 421, it is stated that:

Typically, it is found necessary to take notice of facts which may be used to supplement or clarify the teaching of a reference disclosure, perhaps to justify or explain a particular inference to be drawn from the reference teaching. The facts so noticed serve to fill in the gaps which might exist in the evidentiary showing made by the examiner to support a particular ground of rejection. We know of no case in which facts judicially noticed comprised the principal evidence upon which a rejection was based or were of such importance as to constitute a new ground of rejection when combined with the other evidence previously used.

In the instant case, the rejection improperly utilizes assertions of obviousness, which can at best be characterized to be considered Official Notice, not to “fill in the gaps”, but to provide a complete reasoning behind modification of the primary reference. Accordingly, Applicants submit that it is improper to make such naked assertion in the instant case, and a reference must be utilized in the rejection that not only discloses Applicants' recited concept, but also provides motivation for modifying Reynolds to include Applicants' recited features. This would afford Applicants an opportunity to address issues of lack of motivation for combining separate disclosures as well as an opportunity to argue against any asserted combination.

Applicants also once again point out that the obviousness rejection admits that Reynolds is silent with respect to the specifics of the claims under rejection, but contends that one of ordinary skill in the art would recognize that this is a matter of optimization of a result effective variables and it has been held that discovery of an optimum value of a result effective variable in a known process is ordinarily within the skill of the art.

In contrast to the assertions in the rejection, Applicants respectfully once again submit that the obviousness rejection does not teach or suggest the combination of features recited in Applicants' claims. The Examiner is reminded that the rejection must establish where each and every feature recited in Applicants' claims is within the prior art, and must show motivation for modifying the primary reference to include such features. In the instant situation, the prior art is silent as to any indication where the prior art teaches or suggests the combination of features recited in Applicants'

independent claim 1. Accordingly, for at least this reason, the obviousness rejection is without appropriate basis and should be withdrawn.

Moreover, the obviousness rejection does not establish that Applicants' recited parameters are art recognized parameters, and that one having ordinary skill in the art would perform experimentation to arrive at optimum values for these parameters.

Accordingly, for this additional reason, the obviousness rejection should be withdrawn.

Moreover, as noted above, the rejection is silent with respect to claim 13 which recite an acute angle of between 10 and 45°C. Certainly, this is not appropriate, and this recitation must be addressed in the rejection.

In view of the above, if this ground of rejection is maintained, the Examiner is respectfully requested to denote structure in Reynolds that would include or arrive at structure recited in Applicants' independent claim 1 and further defined in the dependent claims.

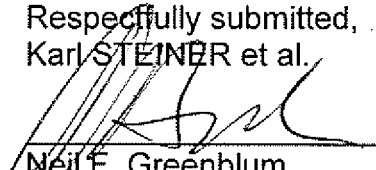
CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow each of the pending claims.

Applicants therefore respectfully request that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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